

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BRITTANY E. MARTIN

Plaintiff,

Hon. Hala Y. Jarbou

v.

Case No. 1:24-cv-72

HENN LESPERANCE PLC, et al.,

Defendants.

_____ /

ORDER

Plaintiff filed her pro se complaint in this case on January 26, 2024. (ECF No. 1.) After the Court granted Plaintiff's application to proceed *in forma pauperis* (ECF No. 5), the Marshals Service served summonses and copies of the complaint on Defendants. On February 22, 2024, the Court granted the parties' stipulation allowing Plaintiff until February 29, 2024, to amend her complaint as a matter of course pursuant to Fed. R. Civ. P. 15(a)(1)(A) and allowing Defendants until March 21, 2024, to answer or file any other response permitted under the Federal Rules of Civil Procedure. (ECF No. 12.) On March 21, 2024, after Plaintiff failed to amend her complaint within the stipulated time, Defendants filed a Rule 12(b) motion to dismiss. (ECF No. 14.)

On April 12, 2024 (entered on April 15, 2024), without seeking leave of Court pursuant to Federal Rule of Civil Procedure 15(a)(2), Plaintiff filed a First Amended Complaint which, including exhibits, totaled 995 pages. Because Plaintiff already had the benefit of the 21-day period, extended by the parties' stipulation, she was not entitled to a second opportunity to amend her complaint as a matter of course, as Rules 21(a)(1)(A) and (B) are stated in the disjunctive. Thus, Plaintiff's first amended complaint was improperly filed. Accordingly,

IT IS HEREBY ORDERED that the Clerk shall strike and remove Plaintiff's First Amended Complaint and exhibits (ECF No. 17) from the docket in this matter.

IT IS FURTHER ORDERED that, if Plaintiff seeks to amend her complaint, she must file a motion for leave to amend pursuant to Rule 15(a)(2). Because Plaintiff has already submitted her proposed amended pleading and exhibits to the Court, if Plaintiff intends to seek leave, she need not attach copies to her motion. In addition, because it appears that Plaintiff has already served her proposed amended pleading and exhibits on Defendants, she need not include additional copies with any motion served on Defendants.

Dated: April 16, 2024

/s/ Sally J. Berens
SALLY J. BERENS
U.S. Magistrate Judge